MJS

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

FILED
08 AUG 25 AM 9:48
CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
ECL DEPUTY

UNITED STATES OF AMERICA, Plaintiff, v. **Juan ORTIZ-Espino,** Defendant	Magistrate Docket No. '08 MJ 2608 COMPLAINT FOR VIOLATION OF: Title 8, U.S.C., Section 1326 Deported Alien Found in the United States

The undersigned complainant, being duly sworn, states:

On or about **August 23, 2008** within the Southern District of California, defendant, **Juan ORTIZ-Espino,** an alien, who previously had been excluded, deported and removed from the United States to **Mexico**, was found in the United States, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

SIGNATURE OF COMPLAINANT
Terri L. Dimolios
Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS 25th DAY OF AUGUST 2008

William McCurine Jr.
UNITED STATES MAGISTRATE JUDGE

DOA
8/23/08
ECL

CONTINUATION OF COMPLAINT:
Juan ORTIZ-Espino

PROBABLE CAUSE STATEMENT

I declare under the penalty of perjury that the following statement is true and correct:

On August 23, 2008, Border Patrol Agent D. Nguyen was performing line watch duties in the Imperial Beach area of operations. At approximately 6:30 a.m., a seismic intrusion device activated as well as West Scope observation of two individuals walking north in an area known as the "90's". The 90's is approximately five miles west of the San Ysidro, California Port of Entry and is approximately 500 hundred yards north of the United States/Mexico International Boundary Fence. The 90's is an area notoriously used by illegal aliens to further their illegal entry into the United States.

Agent Nguyen responded to the 90's and encountered two individuals concealing themselves in the brush. Agent Nguyen approached the individuals and immediately identified himself as a United States Border Patrol Agent and questioned all individuals, including one later identified as the defendant Juan **ORTIZ-Espino**, as to their citizenship and nationality. Both individuals, including the defendant, freely admitted that they were citizens and nationals of Mexico illegally present in the United States. All individuals, including the defendant, further admitted they did not possess any immigration documentation permitting them to enter or remain in the United States legally. At approximately 6:55 a.m., Agent Nguyen arrested the defendant and the other individual and had them transported to the Imperial Beach Border Patrol Station for processing.

Routine record checks of the defendant revealed a criminal and immigration history. The defendant's record was determined by a comparison of his criminal record and the defendant's current fingerprint card. Official immigration records of the Department of Homeland Security revealed the defendant was previously deported to **Mexico** on **May 18, 2007** through **Laredo, Texas**. These same records show that the defendant has not applied for permission from the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security, to return to the United States after being removed.

The defendant was advised of his Miranda rights. The defendant stated that he understood his rights and was willing to answer questions without an attorney present. The defendant admitted that he is a citizen and national of Mexico illegally present in the United States. The defendant further admitted that he had been previously deported from the United States and has not applied or requested permission to re-enter the United States legally.

Executed on August 24, 2008 at 9:00 a.m.

Carlos R. Chavez
Senior Patrol Agent

On the basis of the facts presented in the probable cause statement consisting of 1 page(s), I find probable cause to believe that the defendant named in this probable cause statement committed the offense on **August 23, 2008**, in violation of Title **8**, United States Code, Section **1326**.

Peter C. Lewis
United States Magistrate Judge

8-24-08 @ 11:28 a.m.
Date/Time